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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

TAYMOURIAN et al.

Serial No.: 09/944,033

Filed: August 30, 2001

Atty. File No.: 4537-1

For: "WALLBOARD WITH FLY ASH"

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action having a mailing date of December 24, 2002, regarding the above-identified U.S. patent application. In the Action, the Examiner has determined that restriction to one of two inventions is required. The two inventions are Claims 1-9 (Group I) drawn to a wallboard and Claims 10-24 (Group II) drawn to a method of making wallboard.

The Examiner asserts that the process as claimed can be used to make other and materially different product such as a composition having a viscosity less than 600,000 centipoise.

Applicants respectfully traverse the restriction requirement. Applicants' invention is directed to wallboard having fly ash. Any appropriate prior art searching for the fundamental invention would be the same, regardless of whether the invention is the wallboard itself or the method for making it. The different features in the dependent claims also require appropriate searching, regardless of whether they are characterized as a dependent product claim or a dependent process claim. With respect to the 600,000 centipoise aspect, this limitation could easily be included as part of a dependent claim depending from the independent wallboard claim. Consequently, a restriction requirement finding should not be based on whether or not there is a dependent claim in the product claims that is the same as the feature recited in the independent method claim.

Inasmuch as there is no additional prior art searching burden, and the ground for distinguishing the wallboard product claims and the wallboard method claims is based on the feature

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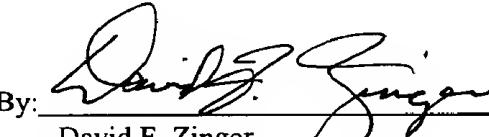
that can be part of a wallboard product claim, Applicants submit that the restriction requirement should be withdrawn.

Notwithstanding this traversal and as required, Applicants elect the Group II Claims 10-24 for examination. Substantive examination of these claims is respectfully requested and allowance thereof is solicited.

Respectfully submitted,

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